

 **Sterne Kessler  
Goldstein Fox**  
ATTORNEYS AT LAW



Robert Greene Sterne  
Edward J. Kessler  
Jorge A. Goldstein  
David K.S. Cornwell  
Robert W. Esmond  
Tracy-Gene G. Durkin  
Michele A. Cimbala  
Michael B. Ray  
Robert E. Sokohl  
Eric K. Steffe  
Michael Q. Lee  
Steven R. Ludwig  
John M. Covert  
Linda E. Alcorn  
Robert C. Millonig  
Lawrence B. Bugaisky  
Donald J. Featherstone  
Michael V. Messinger

Judith U. Kim  
Timothy J. Shea, Jr.  
Patrick E. Garrett  
Heidi L. Kraus  
Edward W. Yee  
Albert L. Ferro\*  
Donald R. Banowitz  
Peter A. Jackman  
Molly A. McCall  
Teresa U. Medler  
Jeffrey S. Weaver  
Kendrick P. Patterson  
Vincent L. Capuano  
Eldora Ellison Floyd  
Thomas C. Fiala  
Brian J. Del Buono  
Virgil Lee Beaston  
Kimberly N. Reddick

Theodore A. Wood  
Elizabeth J. Haanes  
Bruce E. Chalker  
Joseph S. Ostroff  
Frank R. Cottingham  
Christine M. Lhulier  
Rae Lynn Prengaman  
Jane Shershenovich\*  
Lawrence J. Carroll\*  
George S. Bardmesser  
Daniel A. Klein\*  
Rodney G. Maze  
Jason D. Eisenberg  
Michael D. Specht  
Andrea J. Kamage  
Tracy L. Muller\*  
Jon E. Wright\*  
LuAnne M. Yuricek\*

John J. Figueroa  
Ann E. Summerfield

**Registered Patent Agents\***

Karen R. Markowicz  
Nancy J. Leith  
Helene C. Carlson  
Gaby L. Longworth  
Matthew J. Dowd  
Aaron L. Schwartz  
Mary B. Tung  
Katrina Y. Pei  
Bryan L. Skelton  
Robert A. Schwartzman  
Timothy A. Doyle  
Jennifer R. Mahalingappa  
Teresa A. Colella

Jeffrey S. Lundgren  
Victoria S. Rutherford  
Eric D. Hayes

**Of Counsel**  
Kenneth C. Bass III  
Evan R. Smith

\*Admitted only in Maryland  
\*Admitted only in Virginia  
\*Practice Limited to  
Federal Agencies

November 7, 2003

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Art Unit 1641

Re: U.S. Utility Patent Application  
Appl. No. 09/889,520; § 371 Date: December 10, 2001  
For: **Assay With Reduced Background**  
Inventors: Raven *et al.*  
Our Ref: 1581.0810000/RWE

**RECEIVED**

NOV 12 2003

TECH CENTER 1600/2900

Sir:

Transmitted herewith for appropriate action are the following documents:

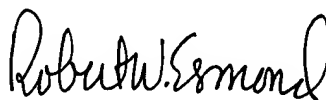
1. Reply To Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Robert W. Esmond  
Attorney for Applicants  
Registration No. 32,893

Enclosures

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#16  
11/18/03  
iw

In re application of:

Raven *et al.*

Appl. No.: 09/889,520

§ 371 Date: December 10, 2001

For: **Assay With Reduced Background**

Confirmation No.: 4276

Art Unit: 1641

Examiner: Davis, Deborah A.

Atty. Docket: 1581.081000/RWE

**Reply To Restriction Requirement**

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Commissioner for Patents  
Washington, D.C. 20231

NOV 12 2003  
TECH CENTER 1600/2900

Sir:

In reply to the Office Action dated **October 8, 2003**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby elect to prosecute the invention of Group I, represented by claims 1-6, 9-11 and 19. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed. Applicants reserve the right to file divisional applications directed to the non-elected claims.

This election is made **with** traverse. Reconsideration and withdrawal of the restriction requirement, and consideration of all pending claims, are respectfully requested. The criteria for a proper requirement for restriction are that (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. MPEP § 803.

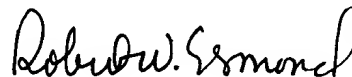
With respect to the division of the claims into three groups, Applicants respectfully traverse. Applicants respectfully assert that the claims in Groups I-III are closely related in subject matter. Even assuming, arguendo, that Groups I-III represent distinct or independent subject matter, Applicants submit that to search and examine the subject matter of the groups together would not be a serious burden on the Examiner. A search of one group of claims

is likely to encompass subject matter pertinent to the patentability of all groups. Hence, Applicants respectfully assert that a serious burden would not be imposed on the Examiner if restriction were not required. According to the guidance of the MPEP, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803. Hence, reconsideration and withdrawal of the Restriction Requirement, and consideration of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Robert W. Esmond  
Attorney for Applicants  
Registration No. 32,893

Date: Nov. 7, 2003  
1100 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20005-3934  
(202) 371-2600  
::ODMA\MHODMA\SKGF\_DC1;196772;1  
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